

PHILIP A. AMICONE
MAYOR



CITY HALL
YONKERS, NEW YORK 10701

DAN SCHORR
INSPECTOR GENERAL

Ph: 914-377-6107
Fax: 914-377-6990

DEPARTMENT OF
INSPECTOR GENERAL
CITY OF YONKERS

TO: Philip A. Amicone, Mayor

CC: Chuck Lesnick, City Council President
All City Council Members
Edmund Hartnett, Police Commissioner
Carl Maniscalco, Finance Commissioner

FROM: Dan Schorr, Inspector General *DS*

SUBJECT: Yonkers Vehicle Tows and Impounds

DATE: March 15, 2011

This report is issued in response to inquiries from various City officials and members of the public regarding the City's administration of tow company services and the related financial and contractual issues.

Summary of Findings and Recommendations

The City recently took positive steps towards improving its procedures for awarding tow and impound contracts. Nevertheless, additional transparency and objective criteria are needed, such as having City employees who interact with the companies provide written performance evaluations prior to the next contract. Requiring tow companies to bid on the price of impounding vehicles would provide an important objective criteria and could bring increased funds to the City. Additionally, City records for tow company activity are often hand-written and inconsistent, resulting in instances of under-billing the tow companies. Improved record-keeping and better communication are needed to increase the efficiency and accuracy of the billing process.

Background

When the Yonkers Police Department (YPD) or the Parking Violations Bureau (PVB) encounter vehicles that they believe should be towed and/or impounded, private tow companies are notified to

perform such functions. These companies must meet certain minimum qualifications and, in the case of impounding, compete with each other for the contractual right to work with the City.

Recently, several questions and concerns regarding the City's relationship with and selection of tow companies have been brought to our attention. The objectives of the review were to:

1. Evaluate procedures for vehicle tows initiated by the City
2. Review the process for selecting tow companies for City impound contracts
3. Analyze financial payments made by tow companies to the City
4. Assess and recommend possible improvements for City interaction with tow companies

In the course of our review, we looked at City tow logs for calendar year 2010 and corresponding billing records for 2002 thru 2010, preparing Excel schedules to analyze relevant data. We also reconciled impound and billing records for the period of October thru December 2010. Additionally, our office interviewed members of the YPD Communications Division, Hack Unit, Abandoned Auto Unit, and Fiscal Services Department. We also spoke with supervisors in PVB and the Finance Department, and offered representatives of the relevant tow companies the opportunity to talk with us before issuing this report.

Discussion

Tow Companies and the "Police List"

Yonkers City Code, Section 111, governs the "towing and storage of abandoned, damaged, disabled, and wrecked vehicles" in order to "establish an orderly system for the safe and expeditious removal and storage of these vehicles from the streets and highways of the City of Yonkers." Among other items, it sets forth requirements for situations in which vehicles encountered by the YPD are disabled and need to be towed.

The YPD maintains a "police list" of eligible tow companies that may be called when a disabled vehicle must be towed because of an accident or other malfunction. These companies on the police list, also known as the "emergency roster," must conform to various mandates outlined in Section 111. Currently, nine tow companies are on this roster, and they perform a total of approximately 600-700 tows per year.

In order to successfully apply to be on the police list, a tow company must own and operate a "New York State-registered body and fender shop" and "must have a place of business within the City of Yonkers." The Code also specifies other requirements, such as paying the requisite license fee, maintaining a specified amount of insurance coverage, being on twenty-four-hour call, and responding within twenty minutes to a YPD tow request.

Section 111 provides that the YPD rotate which licensed tow company on the police list is called for each emergency tow. Two pre-printed lists are utilized, one for the east side and one for the west side of the City, with each company having one listing for each medallion it possesses. The Code also mandates that "[a] heavy-duty police list shall be established in the same manner as the police list." However, in practice both are combined into one police list.

Impounded Vehicles Contract

The YPD and PVB order the impound of vehicles on certain occasions, such as when they are illegally parked in certain areas, suspected to be evidence in a pending criminal investigation, or excessively delinquent in parking violations summonses. The vehicles are then impounded and secured by one of the City tow companies. The impounding of such vehicles generates revenue for the tow companies involved.

Section 111-15 sets forth that the Mayor, after having received recommendations from the Police Commissioner, “shall designate three qualified licensees, each to maintain an impound area with the City of Yonkers and to remove an impounded vehicle thereto when and as directed by the Police Department.” Thus, three tow companies are selected to impound vehicles for the City, with each being awarded a two-year contract. In order for a tow company to be designated as one of the three impounds, it must already be on the police list (emergency roster) discussed above. In addition, it must have the capacity within the City to store at least fifty vehicles in a fenced-in area with twenty-four-hour security.

When the current contract was awarded in early 2010, the YPD chose not to make specific recommendations regarding preferred vendors. Instead, the City created a working group with representatives from the YPD, PVB, Mayor’s Office, Corporation Counsel, Purchasing Department, and Finance Department to evaluate the applicants. The committee primarily considered the applicants’ responses to the Request for Proposals (RFP) and the results of YPD facility inspections.

Prior to that contract, the three tow companies designated for impounding were Don-Glo, County Auto & Commercial Towing, and Transit Auto Towing. All three companies had New York State dismantler licenses, which had been contractually required. However, the City determined that the dismantler license requirement was overly restrictive, limited competition, and was unnecessary to fulfill the obligations of the impound contract. The City thus opened up the contract to include companies that are designated by New York State as “itinerant vehicle collectors” to broaden the field of those who can apply for the contract and create greater competition. As a result of this change and an increase in the fees the companies could legally charge customers, three new tow companies sought the contract last year in addition to the three above-mentioned companies. One of the new companies, A.P.O.W. Towing, received a contract along with Don-Glo and County. The current contracts expire in the spring of 2012. The City Council did consider expanding the number of impound contracts from three to a maximum of six companies, but rejected the proposal with a 4-3 vote on February 23, 2010.

The City took positive steps by forming this selection committee and broadening the contract requirements to include other capable companies in the contract competition. However, there was a lack of documentation regarding objective criteria for selecting the three companies. Furthermore, City employees who had the greatest interaction with the impound process and relevant companies reported not being interviewed regarding their evaluation of company performance before the awarding of the latest contract. In the future, we recommend that written evaluations of all current impound companies be created by relevant City employees and forwarded to those assisting in the selection process for the next contract. This procedure will provide more transparency and documentation regarding contract selection. We suggest that documented criteria for selection include

timely payment of monthly City invoices, consumer complaints, compliance with local zoning and workers compensation requirements, and maintenance and security of facilities.

The awarding of this contract to a new tow company, A.P.O.W. Towing instead of Transit, resulted in litigation that is currently pending before the New York State Appellate Division. The issues involved in that litigation are beyond the scope of this report and will be resolved by the court system. Furthermore, several individuals brought to our attention accusations of alleged legal and/or financial impediments to the awarding of the contract. To the extent that such issues are not covered by the ongoing litigation, we reviewed each in detail and found them to be either satisfactorily resolved or lacking sufficient weight to prevent the awarding of the contract.

Section 111-26 sets forth the maximum permitted charges for each tow and impound, with the storage fee capped at \$300 if the City is paying, such as in the case of a vehicle that is evidence in a criminal matter. There is no storage fee cap for City residents. The contract states that companies then must pay the City a fixed amount for each impound. This fee was increased to \$100 per impound with the awarding of the new contract. We recommend that with the next impound contract, interested tow companies bid on the contract price. This could provide additional funds to the City, as well as create an additional objective criteria for deciding which companies are awarded the contract.

One option for bidding involves the companies competing for how much they would pay the City per impound with a starting bid of \$100. Thus, the City should be able to receive more than the \$100 fee for each impound that it currently charges. Another option that the City could explore is having the companies bid with a total monetary figure that they are willing to pay per year for the right to have an impound contract. In such an arrangement, the City would have stable, fixed revenue from the contract and would save manpower costs as it would no longer have to determine how much to bill each company in a given month and how much to subtract from bills because of waivers (discussed on page five). In order to make sure that the companies all receive a fair share of the impound work, the YPD and PVB should monitor the contract activity to ensure that it is fair and consistent and possibly divide the City into geographic areas that each company would cover.

Impound Records and Finances

Each month the City bills the three tow companies \$100 for each impound. The YPD Communications Division maintains a hand-written log for impounds and other activity, with several columns for different information. The YPD Fiscal Services Department then utilizes these logs in order to create a monthly bill for each company.

The RFP states that the companies “will be dispatched by the Police Department’s Communications Division on a rotating basis.” In fiscal year 2010, the YPD billed County for 971 impounds, Don-Glo for 995, Transit for 632, and A.P.O.W. for 188 (Transit’s contract expired and A.P.O.W.’s contract commenced in the last quarter of the fiscal year). In fiscal year 2009, County was billed for 1,135 impounds, Don-Glo for 996, and Transit for 804. After reviewing the available documentation, it is unclear why these companies that are utilized on a “rotating basis” have different numbers of impounds each year. The different numbers may be the result of problems with record keeping, unavailability of companies when they are called, or some other reason. We recommend that the YPD and PVB review their procedures and remedy any inequity.

Our review revealed inaccuracies in record keeping and billings that on numerous occasions cost the City money. We reviewed YPD billings for the months of October-December 2010 and found that in each month all three tow companies were under-billed by hundreds of dollars as impounds were not correctly counted. These errors were attributable to such problems as tow company names placed in the wrong column of the log and difficult-to-read handwriting. We recommend that the YPD review 2010 and 2011 billings and send out revised invoices to correct prior under-billing. In addition, future records should be kept in a more organized and accessible format, such as in an Excel file, so that billings are more accurate and records are easier to review and analyze. We also discovered that in 2008 a \$1,225 credit to Don-Glo was mistakenly re-applied on a second bill. As a result of our review, Don-Glo's future bills will be adjusted to take back this erroneous extra credit.

In addition, we found in our review that Transit's last payment occurred in April 2009 and it failed to pay the City in the last year of its contract, leaving a balance due to the City of approximately \$16,000. Although Transit was repeatedly billed for these funds, the City has not initiated legal action for this money. As a result of our audit, the City reportedly will now pursue legal remedies to collect the past due amount.

Some impounded vehicles are held for lengthy periods of time because of their connection to criminal investigations and prosecutions. Tow companies have expressed frustration at times with the fact that their storage fee to the City is capped at \$300 while they may have to hold on to the vehicle for well over a year. Recently, a vehicle that was being held because of its suspected involvement in a serious criminal matter was stolen from one impound facility, raising important issues regarding impound security. We recommend that such failure to adequately secure important police evidence be considered when the impound contract is considered for renewal.

An additional financial issue involves credits given by the City to tow companies when a vehicle is towed through no fault of the owner, such as because of emergency construction or inaccurate vehicle records. In such a case, the vehicle owner is not charged and the City will grant a waiver to the company for the relevant costs, which can be subtracted from a future bill. However, analyzing the frequency and accuracy of waivers on tow company billings is very difficult because waiver amounts are never listed on the invoices. Rather, the bills instruct the tow companies to "please subtract the costs related to the towing services described in the attached waivers." The lack of proper documentation of waivers on the actual bills has resulted in mistakes by the companies in remitting the correct monthly amount to the City. We recommend that future billings itemize the amount the company owes for tows (\$100 each), the amount of reduction for each applicable waiver, and a final net amount that must be paid. More detailed and complete bills will result in fewer mistakes and better controls.

Conclusions and Recommendations

Our analysis of the City's dealings with tow and impound companies leads us to conclude that although the City recently took positive steps towards improving its procedures for awarding tow and impound contracts, additional transparency and objective criteria are needed. City employees who interact with the companies should provide written performance evaluations prior to the next contract. Also, companies should bid on the price of impounding vehicles in order to provide an important

objective criteria and additional funds to the City. Furthermore, City records for tow company activity are often hand-written and inconsistent, resulting in instances of under-billing. Improved record-keeping and better communication are needed in order to improve the efficiency and accuracy of the billing process.

We make the following specific recommendations:

- Written evaluations of all current impound companies should be created by relevant City employees and forwarded to those assisting in the selection process for the next contract.
- Documented criteria for company selection should include timely payment of monthly City invoices, consumer complaints, compliance with local zoning and workers compensation requirements, and maintenance and security of facilities.
- Interested tow and impound companies should bid on the contract price, resulting in potential increased funds to the City and an additional objective criteria for deciding which companies are awarded the contract.
- Tow and impound records should be kept in a more organized and accessible format, such as in an Excel file, so that billings are more accurate and records are more easily reviewed and analyzed.
- The YPD should review 2010 and 2011 billings to tow companies and send out revised invoices to correct prior under-billing.
- The City should pursue legal remedies to collect past due tow and impound fees.
- Tow and impound billings should itemize the amount the company owes, the amount of reduction for each applicable waiver, and a final net amount that must be paid.